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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,643	08/22/2003	George William Dailey	2003P07970 US	9785

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EXAMINER
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AYRES, TIMOTHY MICHAEL

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/646,643	<b>Applicant(s)</b> DAILEY, GEORGE WILLIAM	
	<b>Examiner</b> Timothy M. Ayres	<b>Art Unit</b> 3637	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 May 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,8-10,15-18 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,8-10,15-18 and 21-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 15 and 22 are objected to because of the following informalities: Claim 15 is dependent upon canceled claim 11. For examination purposes it has been assumed that it depends from claim 9. Claim 22 is dependent upon canceled claim 20. For examination purposes it has been assumed to depend from claim 17. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102/103***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3 and 8 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent 3,203,373 to King. King '373 discloses an elongated planar member (120) that has a top and bottom side and inherently can support a patient. A support assembly includes a base (122) that defines

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the base plane and a pedestal (132) disposed on the base (122). A plurality of elongated connecting arms (124), with a first end defined by shafts (148,150) and a second end defined by shafts (138, 136). The first end of the elongated members (124) is pivotally attached through shafts (148,150) to the bottom of the planar member (120) through flanges (146,144). The second end of the elongated members (124) is pivotally attached through shafts (138,136) to the base pedestal (132). The elongated arms (124) each create an angle (A') with the plane of the base (122) as seen in the marked up figure 6. The elongated connecting arms (124) are arranged as a four bar linkage.

5. The planar member (120) is capable to move from a first position to a second position with the elongated members (124) traveling through an axis that is orthogonal to the base.

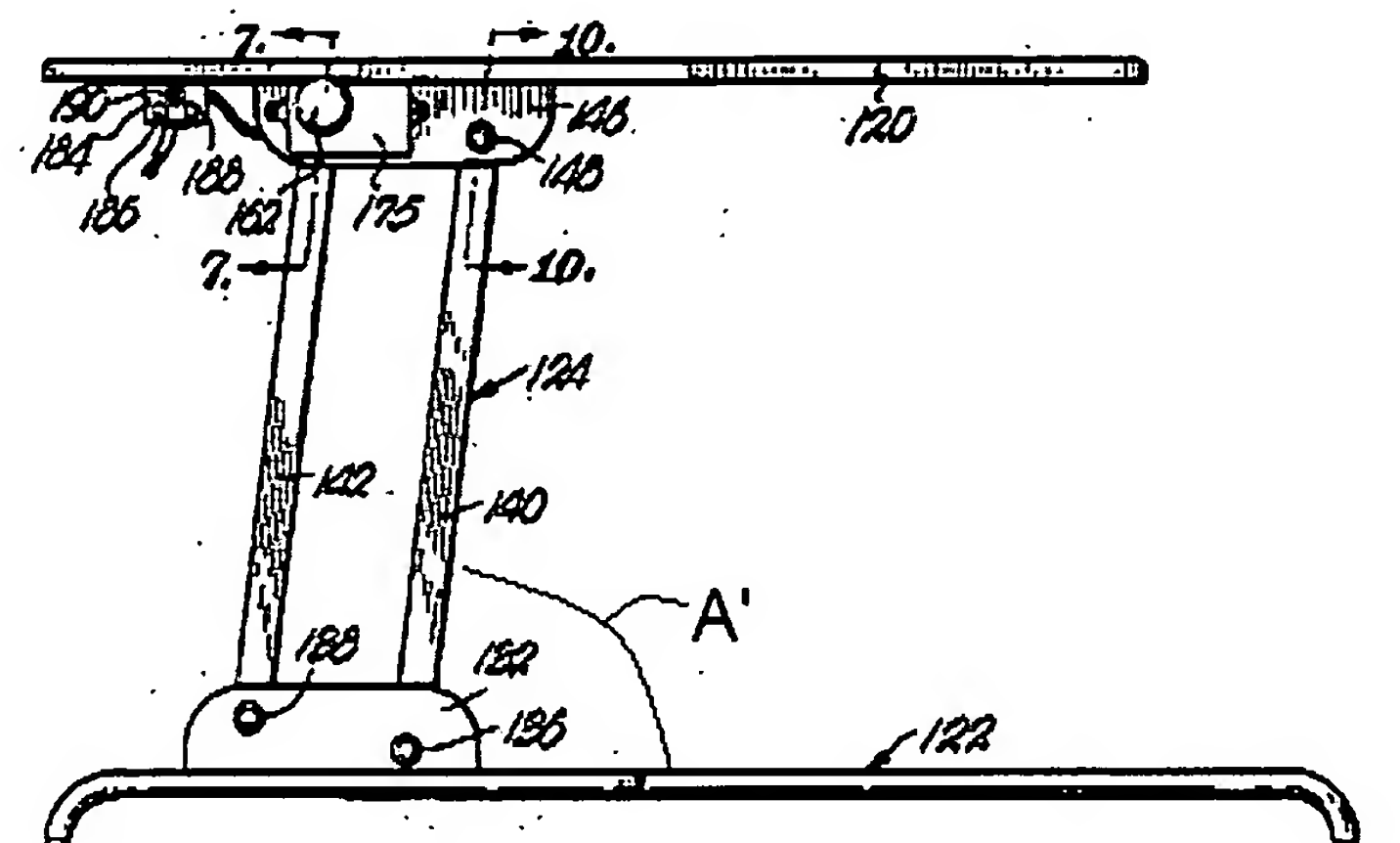
6. The means for moving the planar member from the first position to the second position is a motor assembly (178) with a worm (182) that contacts a worm gear (155) that imparts rotation to shaft (150) and the links (142) attached to the shaft (150). The plane of the first position and the plane of the second position are parallel to each other and the base plane as shown in figure 1.

7. The first ends of the plurality of elongated connecting arms (124) are attached to the bottom side of the planar member (120) approximately midway between the first and second ends of the longitudinal plane.

8. In normal operation the angle (A') goes from an acute angle of approximately zero in a first position (collapsed) to the angle of almost 90 degrees as shown in figure 6 that give maximum height. Though a second position with an obtuse angle is not

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disclosed, the structure is inherently capable of traveling to an obtuse angle and nothing in the specification teaches nor suggests any reason why an obtuse angle can't or shouldn't be reached. Alternatively it would have been obvious for a person of ordinary skill to use the structure of King to travel from a first position of an acute angle to an second position of an obtuse angle.



King '373 Figure 6

**Claim Rejections - 35 USC § 103**

9. Claims 9, 10, 15-18, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,203,373 to King. King discloses every element as claimed and discussed above except a method with the step of position the patient on the planar member of the support device. At the time of the invention it would have been obvious for a person of ordinary skill in the art to use the structure of King '373 to provide a support device to move a patient since it is well known of the need for a

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structure to move a patient during diagnostic testing and King '373 teaches a structure that keeps support level to the ground and the structure allows for a number of operative positions disposed at various heights (King '373, col.1, lines 64-69).

10. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,203,373 to King in view of U.S. Patent 6,516,478 to Cook. King '373 discloses every element as described above. King '373 does not disclose expressly a remote control coupled to the motor assembly. Cook '478 discloses an adjustable height platform (10) with a motor (30) attached to scissor linkage (36,38,40,42). The motor (30) is attached through a controller (20) to a remote control (96) as shown in the block diagram of figure 5. At the time of the invention it would have been obvious for a person of ordinary skill in the art to take the assembly of King and add the remote control of Cook to activate the motor remotely.

11. Claim 21 is an obvious method of using the device of King modified by Cook.

### ***Response to Arguments***

12. Addressing the arguments concerning the reference of King: King '373 teaches an ironing board that has a main purpose of creating a unobstructed space beneath the ironing board to allow a user to sit while ironing. In describing its advancement over the prior art, King '373 discusses ironing boards that users stand at to use and have cross legs that prevent a user from sitting at to use. King does specify what is the seated position and discusses a full-line position as seen in figure 1, this positioning is the dark

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lined ironing board and appears to be a position for a user to use while standing up and the first dashed line is an intermediate position that appears to be the position for sitting with the second dashed line position showing the ironing board in its collapsed position. The examiners contends that by "full-line" position, that King '373 was describing the thickness of the drawn line in order to differentiate the position from that drawn in a "dashed-line" and not that the position was the utmost full height position that could be reached. The term "may be" in col. 2, line 42 suggests that it is not the full height position and that it is just a position that is capable of being reached. There is no structure or specific teaching that precludes the connecting arms from traveling through to an obtuse angle. In discussing "operative positions" there is nothing recited that limits those to positions enable a user to be seated and it is assumed that some of the positions include positions where the user is in a standing position. King '373 uses the phrase "adjacent one end" to describe where the elongated connecting arms are connected. "Adjacent one end" is a broad phrase and from the figures it is clear that the elongated connecting arms are not connected to the end, but have a portion of the board extending to the side toward the end the connecting arms are adjacent to. "Approximately midway" is also a broad term and from figure 1 there appears to be a sufficient amount of board on both sides of the elongated connecting arms for it to be considered attached approximately midway.

***Conclusion***

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

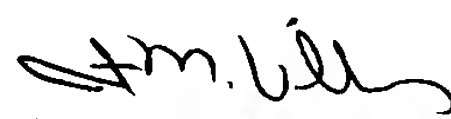
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TMA  
7/21/06



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AAU 3637